

REMARKS/ARGUMENTS

Claims 1-59, 61, 62 and 64-68 remain in the application. Claims 60 and 63 have been canceled.

The allowance of claims 38-54 is noted with appreciation, as is the allowance of claims 23-25, 34-36 and 65 subject to being rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 23 and 34 have been amended to include all of the limitations of the base claim and any intervening claims and are now submitted as clearly allowable, as are claims 24 and 25 which depend from claim 23 and claims 35 and 36 which depend from claim 34.

Claims 1-5, 7-19, 22, 27-33, 37, 55-59, 61, 62, 64, 67 and 68 are rejected under 35 U.S.C. § 102(b) as being anticipated by Walker et al 5,564,414 (Walker). Admittedly Walker discloses a counting mechanism 113, 213 which increments the number of uses of a metered dose medication canister 10 every time the canister and associated slip on counter sleeve device 100 are pushed together. Also Walker discloses a warning device that alerts the patient either visually, audibly or mechanically about an impending and then a final exhaustion of the number of safe doses delivered from the medication canister. However, the counting mechanism of Walker does not include an actuator for driving the counter in response to each fitting of at least two parts of a reusable or disposable device together in order to permit use of the device as recited in claim 1. Accordingly, claim 1 is submitted as clearly allowable.

Claims 2-5, 7-19, 22, 27-33 and 37 depend from claim 1 and are submitted as allowable for substantially the same reasons. Moreover, claims 4-6 further patentably

distinguish over Walker by reciting that the actuator comprises a switch that is activated in response to the fitting of the parts together in order to permit use of the device.

Claims 18 and 19 further patentably distinguish over Walker by reciting that the signaling means comprises a flag or pin that is caused to move from a lowered non-prominent position to a raised prominent position when the device has been used a specified number of times to call attention to the number of uses. The number of uses registered on the display of Walker do not call attention to the number of uses after the device has been used a specified number of times by raising a flag or pin as recited in these claims.

Claims 22 and 27-30 further patentably distinguish over Walker by reciting means for preventing use of the device after a specified number of uses based on the number of times the parts are fitted together. The disclosed stop projections 168, 169 of Walker lock up the counter mechanism when the supply of medication has been exhausted, not the device as claimed. Moreover, claims 27-30 further patentably distinguish over Walker by more particularly reciting the means for preventing use of the device after a specified number of uses based on the number of times the parts are fitted together.

Claims 55-59 are directed to a mechanism for measuring the useful life of a reusable or disposable device that is operable at a plurality of settings that have different effects on the useful life of the device comprising a timer for measuring the total time that the device is operated at each of the settings, and means for determining the useful life of the device based on such measurements. According to the Examiner, although not specifically mentioned in Walker, time and amount are inherent features of

a “dose”. Be that as it may, it is not seen wherein Walker includes any disclosure or suggestion of a timer for measuring the total time that a reusable or disposable device is operated at a plurality of settings that have different effects on the useful life of the device, and means for determining the useful life of the device based on such measurements as recited in these claims. Accordingly, claims 55-59 are also submitted as clearly allowable.

Claims 61 and 62 also recite that the signaling means for signaling when the device has been used a specified number of times comprises a flag or pin that is moved from a lowered non-prominent position to a raised prominent position when the device has been used the specified number of times, similar to claims 18 and 19, respectively, and are submitted as allowable for substantially the same reasons.

Claims 64, 67 and 68 patentably distinguish over Walker by reciting means for preventing use of the device after the device has been used a specified number of times. As previously indicated, the stop projections 168, 169 of Walker lock up the counter mechanism when the supply of medication has been exhausted. Such stop projections do not prevent use of the device after a specified number of uses as claimed. Moreover, claims 67 and 68 further patentably distinguish over Walker, claim 67 by reciting that the means for preventing comprises a valve for blocking a fluid path to the device after the specified number of uses, and claim 68 by reciting that the means for preventing comprises a mechanical linkage that is disabled after the specified number of uses.

Claims 6, 20, 21, 26 and 66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker. However, claim 6 depends from claim 4, claims 20 and 21

depend from claim 17, claim 26 depends from claim 22, and claim 66 depends from claim 64 and are submitted as allowable for substantially the same reasons. Moreover, claims 26 and 66 further patentably distinguish over Walker by reciting that the means for preventing comprises a switch for interrupting an electrical connection to the device after the specified number of uses.

Where, as here, the differences in the claimed structure give advantageous results not disclosed or suggested in the cited references, more than a matter of design is involved. Accordingly, this application is now believed to be in condition for final allowance of all of the pending claims 1-59, 61, 62 and 64-68, and early action to that end is earnestly solicited. Should the Examiner disagree with applicant's attorney in any respect, it is respectfully requested that the Examiner telephone applicant's attorney in an effort to resolve such differences.

In the event that an extension of time is necessary, this should be considered a petition for such an extension. If required, fees are enclosed for the extension of time and/or for the presentation of new and/or amended claims. In the event any additional fees are due in connection with the filing of this reply, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (Charge No. LUMIP0131US).

Respectfully submitted,

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